IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v. 16-M-141-HKS

AIDA RAMIREZ-ARRELLANO,

Defendant.

GOVERNMENT'S NOTICE OF MOTION FOR AN
ADJOURNMENT OF THE RULE 48(b) DISMISSAL ORDER

PLEASE TAKE NOTICE that the United States moves the Court for an adjournment of the date for the Order pursuant to Fed. R. Crim. P. 48(b) dismissing the criminal complaint in this case from April 10, 2017 to April 24, 2017. This motion is based upon an accompanying Affidavit of Special Assistant United States Attorney Brian J. Counihan. Counsel for the defendant, Mark Mahoney, Esq., consents to and joins in the relief sought herein.

DATED: Buffalo, New York, April 7, 2017.

JAMES P. KENNEDY, JR.
Acting United States Attorney
Western District of New York

BY: s/BRIAN J. COUNIHAN
Special Assistant United States Attorney
United States Attorney's Office
Western District of New York
138 Delaware Avenue
Buffalo, New York 14202
(716) 843-5831
brian.counihan@usdoj.gov

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FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

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AIDA RAMIREZ-ARRELLANO,

Defendant.

AFFIDAVIT

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

BRIAN J. COUNIHAN, being duly sworn, deposes and states:

1. I am a Special Assistant United States Attorney for the Western District of New York and am presently assigned to prosecute the above-captioned case. This affidavit is made in support of the government's motion to extend the date for dismissal pursuant to Fed. R. Crim. P. 48(b) so that the parties can come to a pre-indictment resolution of this case.

2. On October 17, 2016, a criminal complaint was authorized by the Court charging the defendant with violating Title 8, United States Code, Section 1326(a) [reentry after deportation or removal].

3. On October 19, 2016, the parties appeared before this Court for an initial appearance. At the initial appearance, the Court set December 30, 2016 for a Rule 48(b) dismissal.

4. On December 29, 2016, upon the government's request, this Court adjourned the December 30, 2016 Rule 48(b) dismissal until February 10, 2017.

5. On January 31, 2017, upon the defendant's request, this Court adjourned the February 10, 2017 Rule 48(b) dismissal until April 10, 2017.

6. Since the initial appearance, counsel for the government and defendant have been in frequent contact and working on a resolution of this matter that was to involve a plea to an information pursuant to a negotiated plea agreement. However, there has been a change in attorney and I anticipate another change in attorneys for the defendant. As such, the parties are seeking an adjournment.

7. The interests of justice outweigh the interest of the public in a speedy trial as new counsel for the defendant and the government have a chance to speak further and resolve any discovery issues.

WHEREFORE, for all of the foregoing reasons, the parties respectfully request that the Court grant the government's motion to extend the Rule 48(b) dismissal date of the pending criminal complaint to April 24, 2017, and to exclude the period from April 10, 2014 to through April 24, 2017 from the Speedy Trial Act, pursuant to Title 18, United States Code, Sections 3161(h)(7)(A) and 3161(h)(7)(B)(iv).

s/BRIAN J. COUNIHAN
Special Assistant United States Attorney
United States Attorney's Office
Western District of New York
138 Delaware Avenue
Buffalo, New York 14202
(716) 843-5831
brian.counihan@usdoj.gov

Sworn to before me this __7___ day

of April, 2017.

s/Karen S. Barone________________
COMMISSIONER OF DEEDS
In And For The City of Buffalo, NY
My Commission Expires Dec. 31, 2018.